

BEFORE THE  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

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DISCOVER NSA

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DOCKET NO. MC2011-19

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DOCKET NO. R2011-3

**Comments of Discover Financial Services**  
**(March 26, 2013)**

Discover Financial Services (DFS) hereby submits these Comments on the Presiding Officer Request Number Three in the above captioned docket.

**I. The Information Request.**

Upon reading the Presiding Officer's Request, Discover certainly appreciates the Commission's need for clarification. It is important, however, for the Commission to fully understand the scope of this amendment. The amount of mail involved here is less than One (1)% of all DFS Eligible First- Class Mail and thus will have a *de minimis* effect on the NSA. Both parties have understood this from the beginning, and have treated the amendment accordingly.

Subsequent to the adoption of the NSA, Discover made a business decision to start an innovative experiment—the delivery of a specific type of plastic credit card to a

new Discover customer by Priority Mail instead of First-Class Mail. Discover has never delivered plastic by Priority Mail, only by First Class.<sup>1</sup> Discover will review the experiment at the end of the year, and if this practice continues, the implications for the Postal Service are significant, particularly if other banks decide that they too may try it. This could be, a significant source of new revenue growth for the Postal Service. Discover's decision to attempt this innovation was an unforeseen business decision.

As it stands today, the DFS NSA requires that for every dollar of DFS First-Class Mail that is diverted out of the First-Class mail stream, DFS must increase its dollar spend in Standard by \$1.65. This is to make up for the loss of contribution caused by the loss of the First-Class piece. Since there is no provision in the NSA exempting First-Class Mail that is diverted out of the First-Class mail stream *and into a more profitable Postal Service mail stream*, that means that for every \$1 of First-Class Mail that is diverted out of First Class and into Priority Mail, DFS would have to increase its dollar spend in Standard, under the terms of the NSA, by \$1.65 to meet the thresholds for year 3 even though its actions in diverting the mail out of First Class were helpful to the Postal Service's finances, not hurtful.

This makes absolutely no sense and is fundamentally inconsistent with the nature and the intent of the NSA.

If Discover diverted First-Class Mail into a more profitable mail stream, rather than diverting it to electronic delivery, some mechanism was needed to make DFS whole. There seemed to be two ways to do this. One would be to take the number of

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<sup>1</sup> Except for emergency replacement cards that have gone and will continue to go Fed Ex.

pieces that were upgraded and apply a credit of an average First-Class revenue piece so that DFS did not have to increase its Standard Mail spend by \$1.65 for each \$1 of First-Class Mail that had left the First-Class mail stream for Priority Mail.<sup>2</sup> The other way to do this would have been to calculate the new thresholds, using the total DFS numbers, and then lower the threshold by backing out the revenue for the First-Class Mail that was not lost to diversion to Standard, but was upgraded to Priority. Again, an average First-Class revenue piece would have seemed to have been the appropriate way to do this.

The parties chose the first option. Thus, what this amendment does is neutralize any negative effects (however small) on the DFS NSA that would be caused by Discover's decision to try delivering new credit cards via Priority Mail rather than First Class.

One might also ask why, if this number is so small, does DFS even care? The answer is that DFS's threshold in year three—which is **25% above its baseline threshold**—is so high that Discover is going to have to stretch very hard to make it (which, from the Postal Service's point of view, is exactly what the Postal Service wants DFS to do), and thus even a very small number could make the difference between reaching and not reaching the threshold.

For policy, reasons, it would be in no one's best interest to effectively penalize Discover because it is stretching itself to try new and innovative postal products. That would send the wrong message at the wrong time to the mailing community about

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<sup>2</sup> Had the NSA's structure and thresholds been done in pieces, one could just back out the pieces. But, since the structure and thresholds are in dollars, we had to create a dollar figure to back out.

innovation, and it would not be fair since the purpose of the \$1.65 Standard Mail set-off is to make the Postal Service whole. Triggering that set-off in a situation where the Postal Service does not need to be made whole would be giving the Postal Service a windfall, which would be fundamentally inconsistent with the spirit of the NSA and the reason the set-off is there. If the Postal Service wants to encourage customer innovation, it should not penalize customers when they try to do so.

In terms of which Priority Mail will qualify for affecting the NSA threshold, the answer is simple. It is and was the mutual intent of both the Postal Service and Discover that *only* the mail that is moving from First Class to Priority to deliver this credit card product would qualify. No other Priority Mail would count, because it would not be diverting volumes from First Class, and it would not be part of delivering this new plastic.

In terms of Discover's other Priority Mail uses—uses that have nothing to do with the NSA or the NSA thresholds—Discover does not make extensive use of Priority Mail. Its annual volumes for the baseline year and Contract Years One and Two are roughly 219,757, 125,989, and 83,000 (through February) pieces. That contract year ends at the end of March. Those numbers, by the way, are in thousands of pieces, not millions.

In conclusion, we urge the Commission and its staff look at the big picture in situations such as this. If the Postal Service wants to encourage innovation, it is counterproductive to penalize a mailer for trying something new. The Postal Service is, rightly so, doing everything it can to encourage innovation, particularly where there is significant potential for new revenue over the long term, as is the case here. The

Commission should also do everything consistent with its responsibilities under the PAEA to facilitate innovation. In particular, the Commission should be strongly supportive of the innovation that Discover is undertaking and approve this modification.

Thank you for considering our views.

Respectfully submitted,

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